

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

ROSALIE GALLEGOS,

Plaintiff,

vs.

Case No. 1:21-cv-01169-DHU-DLM

KILOLO KIJAKAZI, Acting
Commissioner of the
Social Security Administration,

Defendant.

**ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE
JUDGE’S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

The Magistrate Judge filed his Proposed Findings and Recommended Disposition (“PFRD”) on March 17, 2023. Doc. 29. The PFRD notified the parties of their ability to file objections within fourteen days, and that failure to do so waived appellate review. *Id.* at 27. On March 29, 2023, Plaintiff filed objections to the Magistrate Judge’s PFRD. Doc. 31.


Pursuant to FED. R. CIV. P. 72(b), the Court has conducted a de novo review of the record and all parts of the Magistrate Judge’s PFRD that have been properly objected to. In the PFRD, the Magistrate Judge recommended that this Court deny Plaintiff’s Motion to Remand to Agency (“Motion”), Doc. 22, and instead affirm the Social Security Administration Commissioner’s final decision. In Plaintiff’s Motion, she put forth four arguments that she asserted provided independent grounds to reverse or remand. *Id.* at 22-25. Specifically, she challenged the Administrative Law Judge’s factual determinations because the ALJ failed to “meaningfully” consider Plaintiff’s alleged mental limitations in the process of formulating the residual functional capacity (“RFC”) and argues for a reimagined RFC that would add non-exertional limitations. *Id.*

at 22–23. Second, she challenged the ALJ’s treatment of medical opinion evidence. *Id.* at 23–25. Third, Plaintiff implicitly contended that the ALJ erred in concluding that she could have returned to her previous work during the relevant time period. *Id.* at 22. Finally, Plaintiff characterized the Commissioner’s entire Response as impermissible post-hoc reasoning. Doc. 26 at 4-7.

After conducting the de novo review, and having thoroughly considered the Magistrate Judge’s PFRD and the objections, the Court finds no reason either in law or fact to depart from the Magistrate Judge’s recommended disposition.

IT IS THEREFORE ORDERED AS FOLLOWS:

1. The objections of Plaintiff are OVERRULED;
2. The Magistrate Judge’s Proposed Findings and Recommended Disposition (Doc. 29) are ADOPTED;
3. The Court AFFIRMS the Commissioner’s decision, DENIES Plaintiff’s Motion, and DISMISSES this case WITH PREJUDICE.



DAVID HERRERA URIAS
UNITED STATES DISTRICT JUDGE